UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 0 1 2007

OFFICE OF PETITIONS

In re Application   :
Joseph P. McGurk   :
Application No. 10/713,917   : DECISION ON APPLICATION
Filed: April 8, 2003   : FOR PATENT TERM ADJUSTMENT
Docket No. MDXVA-21US   :

This is a decision on the "Application for Patent Term Adjustment
(37 CFR 1.705)" filed April 5, 2007. Applicant requests that the
initial determination of patent term adjustment under 35 U.S.C.
154(b) be corrected from six hundred eleven (611) to two hundred
sixty-six (266) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the
correct Patent Term Adjustment (PTA) determination at the time of
the mailing of the Notice of Allowance is **two hundred sixty-six
(266) days**. A copy of the updated PAIR screen, showing the
correct determination, is enclosed.

On February 2, 2007, the Office mailed the Determination of
Patent Term Adjustment under 35 U.S.C. 154(b) in the above-
identified application. The Notice stated that the patent term
adjustment (PTA) to date was six hundred eleven (611) days.

The Office initially determined a patent term adjustment of six
hundred eleven (611) days based on an adjustment for PTO delay of
six hundred eleven (611) days pursuant to 35 U.S.C.
154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero (0)
days of applicant delay.

However, Applicant points out that he should have been assessed additional delay pursuant to 37 C.F.R. § 1.704(c)(5). 37 C.F.R. § 1.704(c)(5) states that converting an application from a provisional application to a nonprovisional application shall result in applicant day. Specifically, § 1.704(c)(5) states that:

> the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date the application was filed under 35 U.S.C. 111(b) and ending on the date a request in compliance with §1.53(c)(3) to convert the provisional application into a nonprovisional application was filed.

The application was filed as a provisional application on April 8, 2003. Applicant filed a request to convert to a nonprovisional application on March 18, 2004. Accordingly, pursuant to 37 C.F.R. 1.704(c)(5), three hundred forty-five (345) days of applicant delay should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred sixty-six (266) days** (611 days of PTO delay, reduced by 345 days of applicant delay).

No fee has been charged. The Office thanks Applicant for his good faith and candor in bringing this matter to the Office's attention.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Sunday
Date: 9/30/2007

PALM INTRANET

Time: 10:03:00

PTA Calculations for Application: 10/713917

Application Filing Date:	04/08/2003	PTO Delay (PTO):	611
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	266
PTO Delay Adjustment:	-345		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	09/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		345	
54	02/02/2007	MAIL NOTICE OF ALLOWANCE			
53	02/02/2007	MAIL EXAMINER'S AMENDMENT			
52	01/08/2007	ISSUE REVISION COMPLETED			
51	01/08/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	01/08/2007	EXAMINER'S AMENDMENT COMMUNICATION			
49	01/08/2007	NOTICE OF ALLOWABILITY			
48	02/01/2007	DATE FORWARDED TO EXAMINER			
47	02/01/2007	MAIL APPEALS CONF. REOPEN PROSEC.			
41	01/08/2007	APPEALS CONF. DECISION, REOPEN PROSEC.			
39	11/03/2006	REQUEST FOR APPEAL CONFERENCE FILED			
38	11/03/2006	NOTICE OF APPEAL FILED			
37	08/09/2006	MAIL NON-FINAL REJECTION			
36	08/07/2006	NON-FINAL REJECTION			
35	07/31/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	07/31/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	07/31/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
32	07/31/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
31	08/01/2006	DATE FORWARDED TO EXAMINER			
30	07/31/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
29	08/01/2006	DATE FORWARDED TO EXAMINER			
28	07/31/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			

27	08/01/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
26	06/05/2006	MAIL ADVISORY ACTION (PTOL - 303)			
25	05/30/2006	ADVISORY ACTION (PTOL-303)			
24	05/11/2006	DATE FORWARDED TO EXAMINER			
23	05/10/2006	AMENDMENT AFTER FINAL REJECTION			
22	05/05/2006	MAIL FINAL REJECTION (PTOL - 326)			
21	05/01/2006	FINAL REJECTION			
20	02/27/2006	DATE FORWARDED TO EXAMINER			
19	02/25/2006	RESPONSE AFTER NON-FINAL ACTION			
18	02/09/2006	MAIL NON-FINAL REJECTION	611		-1
17	02/06/2006	NON-FINAL REJECTION			
16	02/01/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	01/26/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	12/14/2005	PRELIMINARY AMENDMENT			
13	09/20/2004	REFERENCE CAPTURE ON IDS			
12	01/17/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
11	09/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	08/24/2004	APPLICATION DISPATCHED FROM OIPE			
9	08/25/2004	APPLICATION IS NOW COMPLETE			
8	05/12/2004	CORRESPONDENCE ADDRESS CHANGE			
7	05/12/2004	PRE_EXAM CONVERSION			
6	06/10/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
5	05/12/2004	APPLICATION RETURN TO OIPE			
4	06/09/2003	APPLICATION DISPATCHED FROM OIPE			
3	06/10/2003	APPLICATION IS NOW COMPLETE			
2	04/25/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/08/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

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